

RESOLUTION NO. _____, SERIES 2006

A RESOLUTION PURSUANT TO ORDINANCES 111 AND 112, SERIES 2006, APPROVING THE APPROPRIATION TO FUND THE FOLLOWING RENEWAL CONTRACT - (UNIVERSITY OF LOUISVILLE RESEARCH FOUNDATION, INC. - \$54,500.00).

Sponsored By: Councilwoman Mary Woolridge

BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (THE COUNCIL) AS FOLLOWS:

SECTION I: The following appropriation for the listed contract is hereby approved:

YOUTH DETENTION

\$54,500.00 for a renewal Professional Service Contract with University of Louisville Research Foundation, Inc. for healthcare for juveniles at Youth Detention facilities from July 1, 2006 through June 30, 2007.

SECTION II: This Resolution shall take effect upon its passage and approval.

Kathleen J. Herron
Metro Council Clerk

Kevin J. Kramer
President of the Council

Jerry E. Abramson
Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Irv Maze
Jefferson County Attorney

BY: _____

AGREEMENT

THIS PROFESSIONAL SERVICE CONTRACT, made and entered into by and between the **LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT**, by and through its **LOUISVILLE METRO YOUTH DETENTION SERVICES** herein referred to as “**METRO GOVERNMENT**” or “**LMYDS**”, and the **UNIVERSITY OF LOUISVILLE RESEARCH FOUNDATION, INC.**, with offices located at the HSC Office of Grants Management, K Wing, Suite 2028, Louisville, Kentucky 40292, herein referred to as “**CONSULTANT**”,

WITNESSETH:

WHEREAS, the Metro Government is in need of certain professional services with respect to the following described functions: Provide juveniles in its care with health care that is compatible with the recommendations of the American Academy of Pediatric's Committee on Youth Health Standards for Juvenile Court Residential Facilities (Pediatrics Vol. 52, No. 3, September, 1973); and the Standards for Health Services in Juvenile Detention and Confinement Facilities, National Commission on Correctional Health Care, KRS 15A.210 regulations governing the operation of juvenile detention centers.; and

WHEREAS, the Consultant has been determined by the Metro Government to have the necessary experience, expertise and qualifications to provide those services,

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

I. SCOPE OF PROFESSIONAL SERVICES

A. Consultant shall, at the request of the Metro Government, provide services under the terms of this professional Agreement. The Consultant's work

product may be reviewed from time to time by the Metro Government for purposes of determining that the services provided are within the scope of this Agreement.

B. Consultant, while performing the services rendered pursuant to this Agreement, may incidental thereto utilize agents or employees of such Consultant. However, such use must be documented in the monthly invoice submitted for those services rendered.

C. If from time to time Consultant needs to utilize the records or personnel of the Metro Government relative to performing the services required of this Agreement, then Consultant shall notify the proper agent of the Metro Government of this need and arrangements may be made for that contingency. However, at no time shall the Metro Government make available its resources without the full consent and understandings of both parties.

- D.** The services of Consultant shall include but not be limited to the following:
1. On Monday, Wednesday and Friday of each week, a physician from the U of L Department of Pediatrics will provide physical examinations, and evaluate and treat to the extent he deems necessary, adolescents under control of LMYDS at the Louisville Metro Youth Detention Center and Phoenix House Alternative Shelter. This will be at a mutually agreed upon time either in the afternoon or morning (either at 9:30 - 11:30 a.m. or 2:00 - 4:00 p.m.).
 2. A hospital-based physician will be on call at all times with arrangements made with the Director for Detention Services concerning how to notify the physician. In addition, the Director of

Medical Services will be available for call at all times by a beeper device provided for in the budget.

E. Metro Government Duties

1. LMYDS agrees to provide nursing assistance as is desirable and mutually agreeable, to include scheduling of adolescents to be examined, maintaining records and collecting data, ordering through LMYDS resources medical supplies and pharmaceuticals used in examinations and routine treatment of adolescents, and arranging for completion of laboratory examinations needed for complete evaluation of health problems.
2. It is the duty of LMYDS to obtain or give all necessary prior legal consent for all treatment by University physicians or given at their direction. LMYDS also agrees to allow Consultant to conduct any mutually agreed upon research projects that are in keeping with the human experimentation guidelines set up by the Department of HEW and the approval of appropriate review groups.

F. Physician services subject to this agreement and not provided at LMYDS facilities will be provided at University of Louisville Hospital or Kosair Childrens Hospital, Inc.

II. FEES AND COMPENSATION

A. The Metro Government agrees to pay Consultant **FOUR THOUSAND FIVE HUNDRED FORTY ONE DOLLARS AND SIXTY SIX CENTS (\$4,541.66)** per month in accord with the following program budget.

TOTAL BUDGET \$54,500

Faculty,

Personnel and Fringe Benefits (K.N. Schikler, M.D.) \$44,813

Malpractice Insurance \$ 9,687

The Metro Government agrees to pay Consultant quarterly upon submission of the request for reimbursement by the Consultant. The total amount paid to Consultant for services delivered under this Agreement shall not exceed **FIFTY FOUR THOUSAND FIVE HUNDRED DOLLARS (\$54,500.00)**.

B. Unless otherwise agreed to in writing by the Metro Government, services shall be rendered and payment therefor shall be made at monthly intervals throughout the duration of this Agreement. Payment shall only be made pursuant to a detailed invoice presented monthly, which invoice shall indicate a descriptive daily accounting of the hours expended in service under the contract and the particular nature of such service. Copies of invoices or receipts for any third party charges must be included with the Consultant's invoice when payment is requested.

C. The Metro Government shall not reimburse out of pocket expenses under this Agreement.

D. Consultant, to the extent that it provides the same or related services to other parties agrees to pro-rate its billings to the Metro Government which are of benefit to the other parties and to provide documentation to all parties to verify the pro-ration of such billings. In no event will the Metro Government pay bills which are considered to be double billing (i.e. billing two different parties for the same work).

III. DURATION

A. This is a professional service contract which shall begin July 1, 2006 and shall continue through and including June 30, 2007.

B. This Agreement may be terminated by submitting thirty (30) days' written notice to the non-terminating party of such intent to terminate. This Agreement may also be terminated by any party, without notice to the non-terminating party, because of fraud, misappropriation, embezzlement or malfeasance or a party's failure to perform the duties required under this Agreement. A waiver by either party of a breach of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

C. In the event of termination, payment for services complete up to and including date of termination shall be based upon work completed at the rates identified in this Agreement.

IV. EMPLOYER/EMPLOYEE RELATIONSHIP

It is expressly understood that no employer/employee relationship is created by this Agreement nor does it cause Consultant to be an officer or official of the Metro Government. By executing this Agreement, the parties hereto certify that its performance will not constitute or establish a violation of any statutory or common law principle pertaining to conflict of interest, nor will it cause unlawful benefit or gain to be derived by either party.

V. RECORDS-AUDIT

Consultant shall maintain during the course of the work, and retain not less than five years from the date of final payment on the contract, complete and accurate records of all of Consultant's costs which are chargeable to the Metro Government under this Agreement; and the Metro Government shall have the right, at any reasonable time, to inspect and audit those records by authorized representatives of its own or of any public accounting firm selected by it. The records to be thus maintained and retained by Consultant shall include (without limitation): (a) payroll records

accounting for total time distribution of Consultant's employees working full or part time on the work (to permit tracing to payrolls and related tax returns), as well as canceled payroll checks, or signed receipts for payroll payments in cash; (b) invoices for purchases receiving and issuing documents, and all the other unit inventory records for Consultant's stores stock or capital items; and (c) paid invoices and canceled checks for materials purchased and for subcontractors' and any other third parties' charges.

VI. INSURANCE REQUIREMENTS

Insurance coverage shall be required of Consultant in accordance with Schedule A attached hereto.

VII. HOLD HARMLESS AND INDEMNIFICATION CLAUSE

Consultant and the University of Louisville (U of L), as agencies of the Commonwealth of Kentucky, although vested with sovereign immunity, are subject to the Board of Claims Act, KRS 44.070-44.160. Claims against Consultant and U of L relating to personal injury or property damage may be filed and decided under the provisions of the Act. To the extent permitted by that Act and other applicable law, the Consultant, as agent for the University of Louisville for receiving grants and research agreements from external funding sources, shall defend, indemnify and hold harmless the Metro Government from and against any and all claims which may result from any error or omission arising out of Consultant's and U of L's performance under this Agreement.

VIII. REPORTING OF INCOME

The compensation payable under this Agreement may be subject to federal, state and local taxation. Regulations of the Internal Revenue Service require the Metro Government to report all amounts in excess of \$600.00 paid to non-corporate

contractors. Consultant agrees to furnish the Metro Government with its taxpayer identification number (TIN) prior to the effective date of this Agreement. Consultant further agrees to provide such other information to the Metro Government as may be required by the IRS or the State Department of Revenue.

IX. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Kentucky. In the event of any proceedings regarding this Agreement, the Parties agree that the venue shall be the state courts of Kentucky or the U.S. District Court for the Western District of Kentucky, Louisville Division. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Agreement or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.

X. AUTHORITY

The Consultant, by execution of this Agreement, does hereby warrant and represent that he is qualified to do business in the State of Kentucky, has full right, power and authority to enter into this Agreement.

XI. CONFLICTS OF INTEREST

Pursuant to KRS 45A.455:

(1) It shall be a breach of ethical standards for any employee with procurement authority to participate directly in any proceeding or application; request for ruling or other determination; claim or controversy; or other particular matter pertaining to any contract, or subcontract, and any solicitation or proposal therefor, in which to his knowledge:

(a) He, or any member of his immediate family has a financial interest therein; or

(b) A business or organization in which he or any member of his immediate family has a financial interest as an officer, director, trustee, partner, or employee, is a party; or

(c) Any other person, business, or organization with whom he or any member of his immediate family is negotiating or has an arrangement concerning prospective employment is a party. Direct or indirect participation shall include but not be limited to involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

(2) It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment, in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor.

(3) It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an

inducement for the award of a subcontract or order.

(4) The prohibition against conflicts of interest and gratuities and kickbacks shall be conspicuously set forth in every local public agency written contract and solicitation therefor.

(5) It shall be a breach of ethical standards for any public employee or former employee knowingly to use confidential information for his actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.

XII. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter set forth herein and this Agreement supersedes any and all prior and contemporaneous oral or written agreements or understandings between the parties relative thereto. No representation, promise, inducement, or statement of intention has been made by the parties that is not embodied in this Agreement. This Agreement cannot be amended, modified, or supplemented in any respect except by a subsequent written agreement duly executed by all of the parties hereto.

XIII. OCCUPATIONAL HEALTH AND SAFETY

Consultant agrees to comply with all statutes, rules, and regulations governing safe and healthful working conditions, including the Occupational Health and Safety Act of 1970, *29 U.S.C. 650 et. seq.*, as amended, and KRS Chapter 338. Consultant also agrees to notify the Metro Government in writing immediately upon detection of any unsafe and/or unhealthful working conditions detected at any Metro-owned property where Consultant performs work under this Agreement. Consultant agrees to indemnify,

defend and hold the Metro Government harmless from all penalties, fines or other expenses arising out of the alleged violation of said laws.

XIV. SUCCESSORS

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

XV. SEVERABILITY

If any court of competent jurisdiction holds any provision of this Agreement unenforceable, such provision shall be modified to the extent required to make it enforceable, consistent with the spirit and intent of this Agreement. If such a provision cannot be so modified, the provision shall be deemed separable from the remaining provisions of this Agreement and shall not affect any other provision hereunder.

XVI. COUNTERPARTS

This Agreement may be executed in counterparts, in which case each executed counterpart shall be deemed an original and all executed counterparts shall constitute one and the same instrument.

XVII. CALCULATION OF TIME Unless otherwise indicated, when the performance or doing of any act, duty, matter, or payment is required hereunder and a period of time or duration for the fulfillment of doing thereof is prescribed and is fixed herein, the time shall be computed so as to exclude the first and include the last day of the prescribed or fixed period of time. For example, if on January 1, Consultant is directed to take action within ten (10) calendar days, the action must be completed no later than midnight, January 11.

XVIII. CAPTIONS The captions and headings of this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning and interpretation of any provisions of this Agreement.

XIX. VIOLATIONS OF AND COMPLIANCE WITH KENTUCKY LAWS The Consultant shall reveal any final determination of a violation by the Consultant or subcontractor within the previous five (5) year period pursuant to KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the Consultant or subcontractor. The Consultant shall be in continuous compliance with the provisions of KRS Chapters 136, 139, 141, 337, 338, 341 and 342 that apply to the Consultant or subcontractor for the duration of the contract.

WITNESS the agreement of the parties hereto by their signatures affixed hereon.

**APPROVED AS TO FORM AND
LEGALITY:**

**LOUISVILLE/JEFFERSON COUNTY
METRO GOVERNMENT**

**IRV MAZE
JEFFERSON COUNTY ATTORNEY**

**KIM ALLEN, CABINET SECRETARY
CABINET FOR PUBLIC PROTECTION**

Date: _____

Date: _____

YOUTH DETENTION SERVICES

CLARENCE WILLIAMS, DIRECTOR

Date: _____

**UNIVERSITY OF LOUISVILLE RESEARCH
FOUNDATION, INC.**

By: _____

Title: _____

Date: _____

**Taxpayer Identification No.
(TIN):** _____

**Louisville/Jefferson County
Revenue Commission Account
No.:** _____

SCHEDULE A

INSURANCE REQUIREMENTS

Prior to commencing work ULRF shall obtain at its own cost and expense the following types of insurance through insurance companies licensed in the State of Kentucky. Insurance written by non-admitted carriers will also be considered acceptable, in accordance with Kentucky Insurance Law (KRS 304.10-040). Workers' Compensation written through qualified group self-insurance programs in accordance with Kentucky Revised Statutes (KRS 342.350) will also be acceptable. ULRF shall not commence work under this Contract until all insurance required under the Contract Document has been obtained and until copies of policies or certificates thereof are submitted to **LOUISVILLE METRO YOUTH DETENTION SERVICES** and approved by the Louisville/Jefferson County Metro Government's Risk Management Division. ULRF shall not allow any subcontractor to commence work until the insurance required of such subcontractor has been obtained and copies of Certificates of Insurance retained by ULRF evidencing proof of coverages.

Without limiting ULRF 's indemnification requirements, it is agreed that ULRF shall maintain in force at all times during the performance of this agreement the following policy or policies of insurance covering its operations, and require subcontractors, to procure and maintain these same policies. The Louisville/Jefferson County Metro Government may require ULRF to supply proof of subcontractor's insurance via Certificates of Insurance, or at Louisville/Jefferson County Metro Government's option, actual copies of policies.

- A. The following clause shall be added to the ULRF 's (and approved subcontractors) Commercial General Liability Policies:
 - 1. "The Louisville/Jefferson County Metro Government, its elected and appointed officials, employees, agents and successors are added as an "Additional Insured" as respects operations of the Named Insured performed relative to the contract."

- B. The insurance to be procured and maintained and **minimum** Limits of Liability shall be as follows, unless different limits are specified by addendum to the contract:
 - 1. COMMERCIAL GENERAL LIABILITY, via the **Occurrence Form**, with a **\$1,000,000** Combined Single Limit for any one Occurrence for Bodily Injury, Personal Injury and Property Damage, including:
 - a. Premises - Operations Coverage
 - b. Products and Completed Operations
 - c. Contractual Liability
 - d. Broad Form Property Damage
 - e. Independent Contractors Protective Liability
 - f. Personal Injury

2. ULRF shall purchase and maintain at their own expense a **PROFESSIONAL LIABILITY (Errors and Omissions Liability)** insurance policy, which includes a minimum limit of liability of \$1,000,000 for each Wrongful Act, covering ULRF and all physicians, nurses etc assigned or authorized by ULRF under this agreement. In the event that ULRF 's policy is written on a "Claims Made" Form, ULRF shall, after work has been completed, furnish evidence that the liability coverage has been maintained for at least one year after completion of work, either by submitting renewal policies with a Retroactive Date of not later than the date work commenced under this contract, or by evidence that ULRF has purchased an Extended Reporting Period Endorsement that will apply to any and all claims arising from work performed under this contract.

3. **WORKERS' COMPENSATION** insuring the employers' obligations under Kentucky Revised Statutes Chapter 342 at Statutory Limits, and **EMPLOYERS' LIABILITY - \$100,000 Each Accident/\$500,000 Disease - Policy Limit/\$100,000 Disease - Each Employee.**

Insurance is to be placed with Insurance Companies with an A. M. Best Rating of no less than "B+ VI", unless proper financial information relating to the Company is submitted to and approved by the Louisville/Jefferson County Metro Government's Risk Management Division.

- A. ULRF shall procure and maintain insurance policies as described herein and for which the Louisville Metro Youth Detention Services shall be furnished Certificates of Insurance upon the execution of the Contract. The Certificates shall include provisions stating that the policies may not be cancelled or materially amended without the Louisville/Jefferson County Metro Government having been provided at least (30) thirty days written notice. The Certificates shall include the name and address of the person executing the Certificate of Insurance as well as the person's signature. If policies expire before the completion of the Contract, renewal Certificates of Insurance shall be furnished to the Louisville/Jefferson County Metro Government's Risk Management Division at least 30 days prior to the expiration of any policy(s). Certificates of Insurance as required above shall be furnished, as called for:

Louisville Metro Youth Detention Service
Attn: Jean Bell
720 West Jefferson Street
Louisville, KY 40202

AND

Louisville/Jefferson County Metro Government
Department of Finance, Risk Management Division
611 West Jefferson Street
Louisville, KY 40202

- B. Approval of the insurance by the Louisville/Jefferson County Metro Government shall not in any way relieve or decrease the liability of ULRF hereunder. It is expressly understood that the Louisville/Jefferson County Metro Government does not in any way represent that the specified Limits of Liability or coverage or policy forms are sufficient or adequate to protect the interest or liabilities of ULRF.